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14 **UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
15 **SAN FRANCISCO DIVISION**

16 DON C. BENNETT, COMERLIS DELANEY,  
17 GARY ROBINSON, DARREN SCOTT, and  
18 JON HOTZLER, on behalf of themselves and  
all others similarly situated,

19 Plaintiffs,  
20 vs.

21 SIMPLEXGRINNELL LP,  
22 Defendant.

Case No.: 11-1854 JST (NJV)

**CORRECTED STIPULATION AND**  
**~~PROPOSED~~ ORDER FOR EXTENSION OF**  
**PLAINTIFFS' EXPERT REPORT DEADLINE**

Hon. Jon S. Tigar

1 WHEREAS Plaintiffs' damages expert report disclosure deadline is September 30, 2013, and  
2 Defendant's deadline to produce a rebuttal report is October 21, 2013;

3 WHEREAS Plaintiffs recently discovered that Defendant's produced payroll data may be  
4 missing complete payroll data for dozens of current and former employees;

5 WHEREAS Plaintiffs and their designated expert, Robert Fountain, cannot calculate a  
6 complete damages analysis by the September 30, 2013 disclosure deadline if they are missing this  
7 payroll data;

8 WHEREAS Defendant is investigating to confirm whether it did not produce this payroll data  
9 to Plaintiffs, but recognizes that it may have inadvertently failed to produce this data;

10 WHEREAS if Defendant determines that it inadvertently did not produce responsive data,  
11 Defendant has agreed to supplement the data in a timely manner;

12 WHEREAS the parties have met and conferred on this issue and agree that it is in the interests  
13 of fairness, efficiency, and economy to extend Plaintiffs' damages expert report deadline so that it can  
14 incorporate any data that should have been produced previously. As a result, Defendant has consented  
15 to an extension of Plaintiffs' deadline to produce their damages expert report beyond the current  
16 September 30, 2013 deadline, Plaintiffs have consented to a mutual extension of Defendant's deadline  
17 to produce its rebuttal expert damages report, and the parties have agreed to extend Plaintiffs' expert  
18 discovery deadline related to Defendant's rebuttal damages expert report;

19 WHEREAS the Plaintiffs' pending motion to extend their expert report deadline until after the  
20 disposition of their pending motion to compel, said motion to compel having a return date of October  
21 15, 2013, is unaffected by this stipulation;

22 WHEREAS this extension only applies to the damages expert report to be produced by  
23 Plaintiffs' designated expert Robert Fountain and SimplexGrinnell's rebuttal damages report. It does  
24 not affect Plaintiffs' expert disclosure deadline for other experts, and Plaintiffs have already served  
25 Defendant with their other designated expert's, Douglas Nareau, report today. Similarly, no extension  
26 is required for any of Defendant's expert reports that do not respond to Dr. Fountain's expert damages  
27 report.  
28

IT IS THEREFORE STIPULATED AND AGREED AS FOLLOWS:

1. Upon approval of the Court, Plaintiffs' deadline to produce the damages expert report from designated expert witness Robert Fountain is extended to October 15, 2013;
2. Defendant will supplement its data production by October 8, 2013. If Defendant cannot complete this production by this deadline, the parties will jointly approach the Court to extend Plaintiffs' damages expert report deadline by a reasonable amount to account for the delay in production.
3. Defendant's deadline to produce its rebuttal expert damages report is extended to November 6, 2013.
4. The parties' damages expert discovery deadline is extended to December 3, 2013.
5. All other deadlines are unaffected by this stipulation and shall remain the same.

Dated: September 30, 2013

Respectfully submitted,

/s/ James Kan

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Attorney for Plaintiffs

Dated: September 30, 2013

Respectfully submitted,

/s/ Dominick C. Capozzola

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Attorney for Defendant

### ATTESTATION

Pursuant to Local Rule 5-1(i)(3), I attest that concurrence in the filing of this document has been obtained from each of the other signatories.

Dated: September 30, 2013

Respectfully submitted,

/s/ James Kan

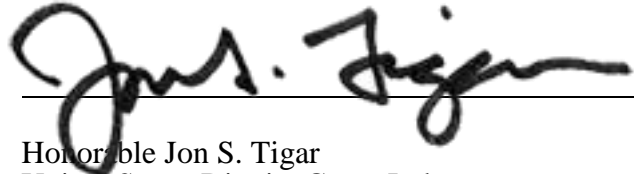
James Kan  
GOLDSTEIN, BORGES, DARDARIAN & HO

Attorney for Plaintiffs

**~~PROPOSED~~ ORDER**

Pursuant to the Stipulation of the parties and GOOD CAUSE APPEARING, IT IS SO ORDERED.

Dated: October 1, 2013

A handwritten signature in black ink, appearing to read "Jon S. Tigar", is written over a horizontal line.

Honorable Jon S. Tigar  
United States District Court Judge